

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

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<b>KATHERINE ELIZABETH NEIMER, a minor, by and through JAMES J. NEIMER and REBECCA NEIMER, her parents and natural guardians,</b>	:	Docket Number <b>02-CV-4034</b>
	:	
	:	
<b>Plaintiffs,</b>	:	
	:	
<b>v.</b>	:	
	:	
<b>LANCASTER SCHOOL DISTRICT, et al.,</b>	:	
	:	
	:	
<b>Defendants.</b>	:	

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**ORDER**

AND NOW this      day of                                  , 2003, upon consideration of Plaintiffs' Amended Motion to Compel Production of Documents Pursuant to Subpoena, and the Opposition thereto of the School District of Lancaster, **IT IS HEREBY ORDERED AND DECREED** that:

1. Plaintiffs' Amended Motion is **DENIED**;
2. Within ten (10) days of the entry of this Order, counsel for the School District of Lancaster shall submit an itemization of the fees and expenses associated with the Opposition to Plaintiffs' Amended Motion to Compel Production of Documents Pursuant to Subpoena; and
3. Plaintiffs' counsel shall pay all such fees within five (5) days after this itemization has been approved by the Court.

BY THE COURT:

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Newcomer, S.J.

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<b>Plaintiffs,</b>	:
	:
<b>v.</b>	:
	:
<b>LANCASTER SCHOOL DISTRICT, et al.,</b>	:
	:
	:
<b>Defendants.</b>	:

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**OPPOSITION OF THE SCHOOL DISTRICT OF LANCASTER  
TO PLAINTIFFS' AMENDED MOTION TO COMPEL  
PRODUCTION OF DOCUMENTS PURSUANT TO SUBPOENA**

The School District of Lancaster (“School District”), by and through its undersigned counsel, opposes Plaintiffs’ Amended Motion to Compel Production of Documents Pursuant to Subpoena (“Plaintiffs’ Amended Motion”) as follows:

1. Denied. The School District is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 1 of Plaintiffs’ Amended Motion and therefore the same are deemed denied.
2. Denied. The School District is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 2 of Plaintiffs’ Amended Motion and therefore the same are deemed denied.
3. It is denied that “[o]n or about June 11, 2003, Plaintiffs caused subpoenas duces tecum to be served upon ... (a) the [School District of Lancaster].” To the contrary, on or about June 9, 2003, a subpoena directed to the School District was apparently left with a Class II

Enrollment Clerk at the School District's Child Accounting Office located within the Carter Macrae Elementary School at 251 South Prince Street. *See* Curry Affidavit attached as Exhibit 2 to the Memorandum of Law in Opposition to the Amended Motion to Compel Production of Documents and Attendance at Deposition (submitted contemporaneously herewith), ¶¶4, 5; Exhibit A to Exhibit 1 attached thereto. The Child Accounting Office is an ancillary office of the School District, not its main office, and the individual with whom the subpoena was left is neither authorized to accept service for the School District, nor in charge of the Child Accounting Office or the Carter Macrae School. *See* Exhibit 2 to the Memorandum of Law in Opposition to the Amended Motion to Compel Production of Documents and Attendance at Deposition, ¶¶3-5, 7 and 8.

4. Denied. The School District is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 4 of Plaintiffs' Amended Motion and therefore the same are deemed denied.

5. Denied. The School District is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 5 of Plaintiffs' Amended Motion and therefore the same are deemed denied.

**WHEREFORE**, the School District of Lancaster requests that the Court deny Plaintiffs' Amended Motion to Compel Production of Documents Pursuant to Subpoena. The School District of Lancaster also requests that plaintiffs' counsel reimburse it for the legal fees and expenses incurred in the preparation of this Opposition.

Respectfully submitted,

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Maura E. Fay  
Identification No. 50814  
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Identification No. 86191  
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215-575-7000

DATED: July 16, 2003

Counsel for  
the School District of Lancaster

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FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

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<b>KATHERINE ELIZABETH NEIMER, a minor, by and through JAMES J. NEIMER and REBECCA NEIMER, her parents and natural guardians,</b>	:	Docket Number 02-CV-4034
Plaintiffs,		:
<b>v.</b>	:	
<b>LANCASTER SCHOOL DISTRICT, et al.,</b>	:	
Defendants.		:

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**MEMORANDUM OF LAW IN SUPPORT OF THE  
OPPOSITION OF THE SCHOOL DISTRICT OF LANCASTER  
TO PLAINTIFFS' AMENDED MOTION TO COMPEL  
PRODUCTION OF DOCUMENTS PURSUANT TO SUBPOENA**

The School District of Lancaster ("School District"), by and through its undersigned counsel, incorporates herein by reference, and adopts, its Memorandum of Law in Support of the Opposition of the School District of Lancaster and Gloria Campbell to Plaintiffs' Amended

Motion to Compel Production of Documents Pursuant to Subpoena and Attendance at Deposition, and all exhibits in support thereof, as if the same were set forth herein in full.

Respectfully submitted,

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Maura E. Fay  
Identification No. 50814  
Joshua D. Groff  
Identification No. 86191  
DILWORTH PAXSON LLP  
3200 Mellon Bank Center  
1735 Market Street  
Philadelphia, PA 19103  
215-575-7000

DATED: July 16, 2003

Counsel for  
the School District of Lancaster

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing Opposition was served by first class mail, postage pre-paid, on July 16, 2003 on the following counsel of record:

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Maura E. Fay

DATED: July 16, 2003